IN THE HIGH COURT OF PUNJAB AND HARYRNA AT CHANDIGARH

C.O.C.P. No.1447 of 2003
Date of Decision:- 23.10.2006

Smt.Bishani Devi ....Petitioner
through
Mr.Mani Ram Verma, Advocate

vs.

Malak Singh Jagat ....Respondent
through
Mr.Jagdish Manchanda, Advocate
Mr.R.D.Sharma, DAG, Haryana

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT

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SURYA KANT, J.

The petitioner filed C.W.P.No.1336 of 1996 seeking a direction for releasing the retiral benefits for the service rendered by her deceased husband. The writ petition was allowed on 29.7.1996 and a direction was issued to the respondents to issue necessary sanction and also to grant interest at the rate of 18% to the petitioner from the date the amount was due till the actual payment thereof.

Alleging non-compliance of the aforesaid order, this contempt petition has been filed.

In response to the show cause notice, a stand has been taken on behalf of the Executive Officer of the Municipal Council that all the retiral benefits admissible to the petitioner, in view of the service rendered by her deceased husband, have been released. The petitioner, however, seriously disputed the bald stand taken by the first respondent. Consequently and in order to ensure that whatever is found due should be released to the petitioner, Mr.Sarban Singh, IAS, Director, Urban Development, Haryana was impleaded as respondent No.3, who appears to have intervened in the matter.

Resultantly and on recomputation of the retiral benefits, the petitioner has been further paid a sum of about Rs.60,000/-.

As directed by this Court, the first respondent has also filed a statement of account (Annexure R3/1) along with the written statement. As per the same, the petitioner appears to have been paid gratuity after calculating the same on the basis of basic pay drawn by her deceased husband. Mr.Mani Ram Verma, learned counsel for the petitioner, however, has referred to the instructions issued by the Finance Department, Government of Haryana circular letter No.1/4(93)/89-2 FR-II, dated 8.3.1996 in terms whereof the retirees were held entitled to the benefit of Dearness Allowance component for the purpose of calculation of gratuity at the rates prescribed in the instructions. He has also brought to my notice a Division Bench judgment of this Court dated September 23, 2005 passed in C.W.P.No.7446 of 2003 wherein the above-stated instructions, to the extent of prescription of the cut-off date, were challenged and this Court after declaring the cut-off date to be wholly irrelevant for the purpose of enhanced pensionary benefits payable to the retirees, has held that "all retirees who are retired/died earlier or after April 1, 1995 would be entitled to the revised pensionary benefits, as per the decision Annexure P-1." The decision "Annexure P-1" mentioned in the above-quoted operated part of the judgment are the instructions dated 8.3.1996.

It, thus, appears that the petitioner, to whom gratuity was paid on 16.5.1996 i.e. after issuance of the instructions dated 8.3.1996 too, is entitled to the benefit of the instructions dated 8.3.1996 as also of the Division Bench judgment of this Court, referred to above. She, however, undisputedly has not been paid gratuity by taking into consideration the

Dearness Allowance component also.

Though, it may not strictly fall within the scope of contempt proceedings, however, in view of the fact that the Division Bench judgment appears to have gone unchallenged and the petitioner, who is an old retiree widow, cannot be compelled to knock at the doors of the Court time and again, it is expedient and desirable to dispose of this petition with following directions:-

> (a) (i) the Director, Urban Development, Haryana; (ii) the Executive Officer, Municipal Council, Bhiwani are directed to consider and dispose of the petitioner's claim for the grant of gratuity after taking into consideration the D.A. component at the rate of 97%, as provided in the Government instructions dated 8.3.1996 and interpreted by this Court in C.W.P.No.7446 of 2003. The arrears, if any, on this account shall be paid to the petitioner within a period of two months from today.
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> (b) The petitioner's claim regarding re-computation of the arrears of Provident Fund shall also be considered and if anything is found due towards that, the same shall also be released within a period of two months from today.

Disposed of.

Rule discharged.

Copy of the order be given dasti on payment of usual charges.

October 23, 2006 **(SURYA KANT)**
poonam **JUDGE**